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In forma pauperis
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No. 1142

IN THE

**SUPREME COURT OF THE
UNITED STATES**

October Term, 1941

316 US # 12

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HAZEL FRANCES GOODALE,
Petitioner,

vs.

CHARLES S. CAMPBELL, THE FIRST NATIONAL
BANK & TRUST COMPANY, et al.
Respondents.

**BRIEF IN OPPOSITION TO PETITIONER'S PETITION
FOR WRIT OF CERTIORARI**

HARRY C. HOWARD,
Attorney for Respondents.

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1938

- Jan. 5, Petition for Certiorari to Supreme Court of Michigan filed (No. 39936 $\frac{1}{2}$).
 Jan. 19, Denied.
 July 6, Application for leave to appeal filed.
 Sept. 7, Denied.
 Reconsideration thereof denied.

1940

- Nov. 7, Original Bill filed, U. S. District Court, Western District of Michigan.

1941

- Jan. 20, Bill dismissed. (See Judge Raymond's opinion — 1st application for certiorari, Case No. 158).
 Mar. 31, Application to prosecute the appeal in forma pauperis filed in C.C.A. 6th.
 Apr. 17, Denied.
 June 12, Application to the Supreme Court of U. S. for Writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit, filed.
 Oct. 13, Denied.
 Nov. 14, Application to Michigan Supreme Court for Leave to Appeal filed.

1942

- Jan. 15, Denied.

ARGUMENT

The respondents ask that the certiorari be denied for the following reasons:

(1) There is no federal question involved and the case is not one arising under the Constitution, or a law or treaty of the United States.

“The existence of a federal question depends upon —

(a) An actual dispute between the parties as to the meaning of some part of the Constitution, or some law or treaty of the United States.

(b) The materiality of the construction of such constitutional matter or law to the determination of the case."

Hughes Fed. Practice, §540, §3220;

U. S. Code, Title 28, §344 (Jud. Code 237) (See cases collected in notes, 81, 227, 251);

McGoldrick v. Gulf Oil Co., 309 U. S. 2, 3; 84 L. ed. 536;

(See also the cases collected in Judge Raymond's opinion).

(2) Petitioner's last application to the Supreme Court of Michigan for leave to appeal (Nov. 14, 1941) is the first attempt to raise a federal question, and it was insufficient for that purpose.

(3) Appeal as a matter of right is limited to twenty days from denial of motion for new trial (Dec. 1, 1937). Thereafter it is a discretionary matter.

Compiled Laws of Michigan, 1929 §15,509;

Mich. Anno. Stat. §27.2609;

Court Rule 57, says: — "The time (20 days) herein provided is jurisdictional in appeals as of right."

Searl's Mich. Court Rules, 4th Ed.

A reference to the papers filed by petitioner in Case No. 158, October Term, 1941, will show a letter from Judge Toms to the petitioner, dated Nov. 30, 1937, containing this statement:

"You will recall that you testified without objection or hindrance to anything you wished to say, whether competent or not, and the legal effect of everything which you claimed was carefully explained to you. I can conceive of no advantage to you in creating an opportunity for the repetition of the same matters."

In petitioner's brief filed in the Supreme Court of the United States in Case No. 158, page 10, she says that the state Supreme Court denied three separate appeals.

No application for certiorari or appeal was made to the U. S. Supreme Court following the third denial by Michigan Supreme Court of her application to appeal.

However, on November 7, 1940, the petitioner filed her original bill in the federal district court, which at last reached the Supreme Court of the United States on an application for certiorari, and was denied Oct. 13, 1941. Following that denial and on Nov. 14, 1941, petitioner filed a fourth application to the Supreme Court of Michigan. She there makes reference to the federal constitution, viz:

"Fifth—She wishes the 'equal protection of all laws and proceedings', which Sec. 1 of the Fourteenth Amendment to the United States Constitution guarantees for the security of liberty and property, and which, thus far, has been denied her, though there isn't and never has been, any legal or factual reason therefor."

So far as the record goes, the respondents have found the quoted paragraph to be the nearest approach to a federal question. It is submitted that the record shows no federal question.

Dated: April 22, 1942.

HARRY C. HOWARD,
Attorney for Respondents.

